



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2017-0279; FRL-9978-64-Region 5]

**Approval and Promulgation of Air Quality Implementation Plans;
Wisconsin; VOC Definition Update and Removal of Obsolete Gasoline
Vapor Recovery Regulations**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request submitted by the Wisconsin Department of Natural Resources (WDNR) on May 16, 2017, to revise the Wisconsin State Implementation Plan (SIP). The submission includes amendments to the Wisconsin Administrative Code updating the definition of "volatile organic compound (VOC)" to add eight compounds to the list of exempted compounds. These revisions are based on EPA rulemakings in 2012, 2013, and 2014, which added these compounds to the list of chemical compounds that are excluded from the Federal definition of VOC because, in their intended use, they make negligible contributions to tropospheric ozone formation. In addition, WDNR is also requesting to withdraw several previously approved provisions of the Wisconsin Administrative Code from the SIP concerning the State's Stage II vapor recovery (Stage II) program that terminated in 2012. EPA approved the removal of the Stage II program as a component of the Wisconsin SIP in 2013, including

the approval of a demonstration under section 110(l) of the Clean Air Act (CAA) that addressed emissions impacts associated with the removal of the program.

DATES: Comments must be received on or before **[insert date 30 days after publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2017-0279 at <http://www.regulations.gov>, or via email to blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on

making effective comments, please visit

<http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061, acevedo.francisco@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the Background for this Action?
 - A. When did the State Submit the SIP Revision to EPA?
 - B. Did Wisconsin Hold Public Hearings on this SIP Revision?
- II. What is EPA Proposing to Approve?
- III. What is EPA’s Analysis of the SIP Revision?
- IV. What Action is EPA Proposing to Take?
- V. Incorporation by Reference.
- VI. Statutory and Executive Order Reviews.

I. What is the Background for this Action?

A. When did the State Submit the SIP Revision to EPA?

WDNR submitted to EPA a revision to the Wisconsin SIP for approval on May 16, 2017. The SIP revision primarily updates the definition of VOC at Wisconsin Administrative Code Chapter NR 400.02(162) and removes obsolete State provisions concerning the

State's Stage II program that terminated in 2012 in Southeast Wisconsin.

B. Did Wisconsin Hold Public Hearings on this SIP Revision?

WDNR conducted a public hearing in Madison, Wisconsin on November 5, 2015.

II. What is EPA Proposing to Approve?

EPA is proposing to approve a Wisconsin SIP revision that updates the definition of VOC at Wisconsin Administrative Code Chapter NR 400.02(162) to add Trans-1,3,3,3-tetrafluoropropene (HFO-1234ze), $\text{HCF}_2\text{OCF}_2\text{H}$ (HFE-134), $\text{HCF}_2\text{OCF}_2\text{OCF}_2\text{H}$ (HFE-236cal2), $\text{HCF}_2\text{OCF}_2\text{CF}_2\text{OCF}_2\text{H}$ (HFE-338pcc13), $\text{HCF}_2\text{OCF}_2\text{OCF}_2\text{CF}_2\text{OCF}_2\text{H}$ (H-Galaden 1040X or H-Galden ZT 130 (or 150 or 180), Trans-1-chloro-3,3,3-trifluoroprop-1-ene (SolsticeTM 1233zd(E)), 2,3,3,3-tetrafluoropropene (HFO-1234yf), and 2-amino-2-methyl-1-propanol (AMP; CAS number 124-68-5) to the list of excluded compounds at NR 400.02(162). Wisconsin took this action based on EPA's 2012, 2013, and 2014 rulemakings in which EPA determined that these compounds have a negligible contribution to tropospheric ozone formation and thus should be excluded from the definition of VOC codified at 40 CFR 51.100(s). See 77 FR 37610 (June 22, 2012); 78 FR 9823 (February 12, 2013); 78 FR 62451 (October 22, 2013); 78 FR 53029 (August 28, 2013); and 79 FR 18037 (March 27, 2014). This action also proposes to approve minor grammatical edits for clarity in NR 420.02(39), NR 420.03(4)(b)3, NR 420.04(1)(b)4, and NR 420.04(3)(c)1.

EPA is also proposing to approve the withdrawal of several remaining provisions from the Wisconsin SIP that are related to the Stage II vapor recovery program that was terminated by Wisconsin in 2012. Wisconsin originally submitted a SIP revision to EPA on November 18, 1992, to satisfy the requirement of section 182(b)(3) of the CAA. The revision applied to the counties of Kenosha, Kewanee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Washington and Waukesha, and was incorporated into the WDNR's 1993-94 ozone 15% Control Plan. EPA fully approved Wisconsin's Stage II program on August 13, 1993 (53 FR 43080), including the program's legal authority and administrative requirements found in Section 285.31 of the Wisconsin Statutes and Chapter NR 420.045 of the Wisconsin Administrative Code.

On November 12, 2012, WDNR submitted a SIP revision requesting the removal of Stage II requirements under NR 420.045 of the Wisconsin Administrative Code from the Wisconsin SIP. To support the removal of the Stage II requirements, the revision included a section 110(l) demonstration addressing the emissions impacts associated with the removal of the program. On November 4, 2013 (78 FR 65875), EPA approved the removal of the Stage II requirements under NR 420.045 of the Wisconsin Administrative Code from the Wisconsin SIP. In this action EPA proposes to approve the removal of the residual Stage II provisions that remained in place after the program was decommissioned. These

provisions are NR 420.02(8m), 420.02(26), 420.02(32), 420.02(38m), NR 425.035, NR 439.06(3)(i), NR 484.05(4), NR 484.05(5), and NR 494.04.

III. What is EPA's Analysis of the SIP Revision?

In 2005, EPA received a petition asking EPA to exempt $\text{HCF}_2\text{OCF}_2\text{H}$ (HFE-134), $\text{HCF}_2\text{OCF}_2\text{OCF}_2\text{H}$ (HFE-236cal2), $\text{HCF}_2\text{OCF}_2\text{CF}_2\text{OCF}_2\text{H}$ (HFE-338pcc13), and $\text{HCF}_2\text{OCF}_2\text{OCF}_2\text{CF}_2\text{OCF}_2\text{H}$ (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180)) from the definition of VOC. Based on the level of reactivity of these chemical compounds, EPA concluded that these compounds make negligible contributions to tropospheric ozone formation (78 FR 9823, February 12, 2013). Therefore, on February 12, 2013, EPA amended 40 CFR 51.100(s)(1) to exclude these compounds from the definition of VOC for purposes of preparing SIPs to attain the national ambient air quality standard for ozone under title I of the CAA (78 FR 9823).

EPA's action became effective March 14, 2013. Wisconsin's SIP revision is consistent with EPA's action amending the definition of VOC at 40 CFR 51.100(s).

In 2009, EPA received a petition asking EPA to exempt 2,3,3,3-tetrafluoropropene (HFO-1234yf) from the definition of VOC. Based on the level of reactivity of this chemical compound, EPA concluded that this compound makes a negligible contribution to tropospheric ozone formation (78 FR 62451, October 22, 2013). Therefore, on October 22, 2013, EPA amended 40 CFR 51.100(s)(1) to exclude this compound from the definition of VOC for purposes

of preparing SIPs to attain the national ambient air quality standard for ozone under title I of the CAA (78 FR 62451). EPA's action became effective November 21, 2013. Wisconsin's SIP revision is consistent with EPA's action amending the definition of VOC at 40 CFR 51.100(s).

In 2009, EPA received a petition asking EPA to exempt Trans-1,3,3,3-tetrafluoropropene (HFO-1234ze) from the definition of VOC. Based on the level of reactivity of this chemical compound, EPA concluded that this compound makes a negligible contribution to tropospheric ozone formation (77 FR 37610, June 22, 2012). Therefore, on June 22, 2012, EPA amended 40 CFR 51.100(s)(1) to exclude this compound from the definition of VOC for purposes of preparing SIPs to attain the national ambient air quality standard for ozone under title I of the CAA (77 FR 37610). EPA's action became effective July 23, 2012. Wisconsin's SIP revision is consistent with EPA's action amending the definition of VOC at 40 CFR 51.100(s).

In 2011, EPA received a petition asking EPA to exempt Trans 1-chloro-3,3,3-trifluoroprop-1-ene from the definition of VOC. Based on the level of reactivity of this chemical compound, EPA concluded that this compound makes a negligible contribution to tropospheric ozone formation (78 FR 53029, August 28, 2013). Therefore, on August 28, 2013, EPA amended 40 CFR 51.100(s)(1) to exclude this compound from the definition of VOC for purposes of preparing SIPs to attain the national ambient air quality

standard for ozone under title I of the CAA (78 FR 53029). EPA's action became effective September 27, 2013. Wisconsin's SIP revision is consistent with EPA's action amending the definition of VOC at 40 CFR 51.100(s).

In 2012, EPA received a petition asking EPA to exempt 2-amino-2-methyl-1-propanol (AMP; CAS number 124-68-5) from the definition of VOC. Based on the level of reactivity of this chemical compound, EPA concluded that this compound makes a negligible contribution to tropospheric ozone formation (79 FR 18037, March 27, 2014). Therefore, on March 27, 2014, EPA amended 40 CFR 51.100(s)(1) to exclude this compound from the definition of VOC for purposes of preparing SIPs to attain the national ambient air quality standard for ozone under title I of the CAA (79 FR 17037). EPA's action became effective June 25, 2014. Wisconsin's SIP revision is consistent with EPA's action amending the definition of VOC at 40 CFR 51.100(s).

As stated above, EPA has determined that the compounds outlined in Wisconsin's SIP revision all qualify as negligibly reactive with respect to their contribution to tropospheric ozone formation. Although states are not obligated to exclude from control as VOCs those compounds that the EPA has found to be negligibly reactive, states may not take credit for controlling these compounds in their ozone control strategies.

In addition, the proposed approval of changes in NR 420.02(39), NR 420.03(4)(b)3, NR 420.04(1)(b)4, and NR

420.04(3)(c)1 are administrative in nature only, and do not have any negative impact on air quality.

As discussed previously in this action, WDNR submitted a SIP revision on November 12, 2012, requesting the removal of Stage II requirements under NR 420.045 of the Wisconsin Administrative Code from the Wisconsin SIP. To support the removal of the Stage II requirements, the revision included a section 110(l) demonstration addressing the emissions impacts associated with the removal of the program. On November 4, 2013 (78 FR 65875) EPA approved the removal of the Stage II requirements from the Wisconsin SIP. In this action EPA is proposing to approve the removal of residual Stage II provisions NR 420.02(8m), 420.02(26), 420.02(32), 420.02(38m), NR 425.035, NR 439.06(3)(i), NR 484.05(4), NR 484.05(5), and NR 494.04, which remained in place after the program was decommissioned at the state level. The removal of these provisions from the SIP does not have any negative impact on air quality in Southeast Wisconsin, since the state addressed the overall emissions impact resulting from the 2012 termination of the Stage II program. See 78 FR 65875.

IV. What Action is EPA Proposing to Take?

EPA is proposing to approve the revision to the Wisconsin SIP submitted by WDNR on May 16, 2017, because the revision is consistent with EPA's prior actions revising the definition of VOC. In addition, the removal of remaining Stage II program

provisions from the SIP meets all applicable requirements, and it will not interfere with reasonable further progress or attainment of any of the national ambient air quality standards.

V. Incorporation by Reference.

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference revisions to Wisconsin Administrative Code provisions NR 400.02(162), NR 420.02(39), NR 420.03(4)(b)3, NR 420.04(1)(b)4, and NR 420.04(3)(c)1, published in the Wisconsin Register #727 on July 25, 2016 and became effective August 1, 2016. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

VI. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason,

this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995

(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: May 16, 2018.

Cathy Stepp,
Regional Administrator, Region 5.